



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Coming Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Richard F. Daines, M.D.  
Commissioner

June 7, 2007

Robert E. Leamer  
Senior Vice President and General Counsel  
Metropolitan Jewish Health System  
6323 Seventh Avenue  
Brooklyn, NY 11220-4711

Re: Metropolitan Jewish Home Care, Inc.  
Stipulation and Order #HHC-07-04

Dear Mr. Leamer:

Here is a duplicate original for your records of the fully executed Stipulation and Order that concludes the above matter. Payment of \$10,500 is due by July 10, 2007. Please have "Order #HHC-07-04" written on the front of the check that is made payable to the "NYS Dept. of Health." Please send it to the address shown on Page 4 of the enclosed Stipulation and Order. Do not send it to me.

If you have any questions please call me at (518) 473-5174.

Very truly yours,

Martin Bleich  
Senior Attorney  
Division of Legal Affairs

cc: Bureau of Home Care

STATE OF NEW YORK : DEPARTMENT OF HEALTH

---

IN THE MATTER

OF

RICHARD F. DAINES, M.D., as Commissioner of Health of  
the State of New York, to determine the action to be taken  
with respect to:

METROPOLITAN JEWISH HOME CARE, INC.

Respondent,

as operator of

METROPOLITAN JEWISH HOME CARE, INC.  
440 Ninth Avenue, 14<sup>th</sup> Floor  
New York, New York 10001

STIPULATION

AND

ORDER

# HHC-07-04

arising out of alleged violations of Article 36 of the Public  
Health Law of the State of New York and Title 10 (Health)  
of the Official Compilation of Codes, Rules and Regulations  
of the State of New York

---

WHEREAS, the New York State Department of Health (the "Department") has  
conducted surveys and inspections of Metropolitan Jewish Home Care, Inc., operated  
by Metropolitan Jewish Home Care, Inc. (the "Respondent"), and has found violations of  
Article 36 of the Public Health Law and Title 10 (Health) of the Official Compilation of  
Codes, Rules and Regulations of the State of New York (10 NYCRR); and

WHEREAS, a Statement of Deficiencies resulting from the Department's survey  
on November 21, 2006 was issued to the Respondent; and

WHEREAS, prior to the service on the Respondent of a Notice of Hearing and  
Statement of Charges and the commencement by the Department of an administrative

enforcement action based on the alleged violations, the Department and the Respondent engaged in settlement discussions; and

WHEREAS, the parties now wish to resolve this matter by means of a settlement instead of an adversarial administrative hearing.

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The matter relating to alleged violations of Article 36 of the Public Health Law and 10 NYCRR, as set forth in the Statement of Deficiencies dated November 21, 2006 is hereby settled and discontinued with prejudice upon the terms and conditions set forth in this Stipulation and Order.

2. Solely for the purpose of resolving the instant administrative matter, the Respondent admits the existence of substantial evidence of violations of 10 NYCRR 763.2(a): Patient's Rights; 10 NYCRR 763.4(h): Policies and Procedures of Service Delivery; 10 NYCRR 763.5(a): Patient Referral, Acceptance, and Discharge; 10 NYCRR 763.6(e): Patient Assessment and Plan of Care; and 10 NYCRR 763.11(a) & (b): Governing Authority. The foregoing admission is not intended for use in any other forum, tribunal or court, including any Medicare or Medicaid enforcement proceeding and including any civil or criminal proceeding in which the issues or burden of proof may differ. Any such admission is without prejudice to the Respondent's rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department. It is agreed that the foregoing admission is not intended to be dispositive of any allegations of medical malpractice that may be made in a civil action for monetary damages.

3. Pursuant to Sections 12 and 206 of the Public Health Law, a civil penalty of \$10,500 is assessed against the Respondent. The Respondent shall pay that amount within thirty (30) days from the effective date of this Stipulation and Order.

4. Payment shall be made to the New York State Department of Health, Bureau of Accounts Management, Corning Tower, Room 1258, Empire State Plaza, Albany, New York 12237-0016. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection and non-renewal of permits and licenses [Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32].

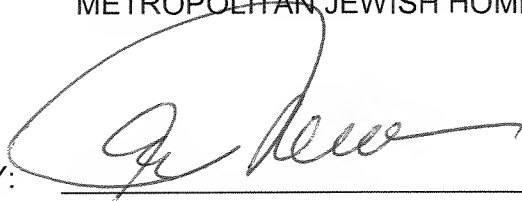
5. The Respondent consents to the issuance of this Stipulation and Order, accepts its terms and conditions, and waives any right to challenge or review this Stipulation and Order through administrative or judicial proceedings, including a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.

6. This Stipulation and Order shall be effective upon service on Respondent or Respondent's attorney or representative of a copy by personal service or by certified or registered mail.

DATED: New York, New York  
May 15, 2007

METROPOLITAN JEWISH HOME CARE, INC.

BY: \_\_\_\_\_

  
Eli S. Feldman  
President & CEO

AGREED AND SO ORDERED:

DATED: Albany, New York  
May 29, 2007

NEW YORK STATE DEPARTMENT OF HEALTH  
*Wendy Saunders*

BY:

\_\_\_\_\_  
WENDY SAUNDERS  
Executive Deputy Commissioner &  
Chief of Staff

Inquiries to: Martin Bleich, Senior Attorney  
Telephone: (518) 473-5174  
Fax No.: (518) 486-1858

Mail Payment To:

New York State Department of Health  
Bureau of Accounts Management  
Corning Tower, Room 1258  
Empire State Plaza  
Albany, New York 12237-0016